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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/567,474

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Andreas Michl

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EXAMINER

LEE, JAE YOUNG

ART UNIT

PAPER NUMBER

2419

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PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	<b>Application No.</b> 10/567,474	<b>Applicant(s)</b> MICHL, ANDREAS	
	<b>Examiner</b> JAE Y. LEE	<b>Art Unit</b> 2419	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) ☒ Responsive to communication(s) filed on 01 December 2008.
- 2a) ☒ This action is **FINAL**.                      2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) ☒ Claim(s) 1-17 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-17 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)          | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____                                      |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)          | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____  | 6) <input type="checkbox"/> Other: _____                          |

## **DETAILED ACTION**

### ***Response to Arguments***

1. Applicant's arguments filed on 1 December 2008 have been fully considered but they are not persuasive.
2. On page 7 of the Applicant's Response, applicant's argue that Pruthi does not teach or suggest "*a single screen having first region and a second region*"
3. The Examiner respectfully disagrees with Applicant's arguments, because Pruthi discloses *a single screen having multiple region including NetVCR Traffic Plots region and TCP Level Counts region (Fig. 20)*. Furthermore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to use single screen or multiple screen, where the claimed differences involved to the substitution of interchangeable or replaceable equivalents and the reason for the selection of one equivalent for another was not to solve an existent problem, such substitution has been judicially determined to have been obvious. In re Ruff, 118, USPQ, 343 (CCPA 1958). This supporting based on a recognition that the claimed difference exist not a result of an attempt by applicant solve a problem but merely amounts to selection of expedients known to the artisan of ordinary skill as design choices.

### ***Claim Objections***

4. Claims 1 are objected to under 37 CFR 1.75 because of the following informalities:

Claim 1 line 12 recites "the at least one service access point". It is suggested that applicant changes "the at least one service access point" to -- at least one service access point --

Appropriate correction is required.

### ***Claim Rejections - 35 USC § 103***

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

6. The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

1. **Claim 1, 2, 6-11, 15-17** are rejected under 35 U.S.C. 103(a) as being unpatentable over Pruthi (US 2002/0105991) in view of Bahadiroglu (US 2002/0186660).

**For claims 1, 10**, Pruthi discloses a system and method comprising:

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- a message analyzer for analyzing messages which are transmitted, the message analyzer comprising (Fig. 1: computer C1; Fig 10: traffic visualizer):
- a storage device for storing messages (Fig. 3: 318: paragraph 0036 line 2: memory); and
- a selector for reading in a sequence of temporally successive messages (paragraph 0036 lines 3-5: processor and query engine generating statistics corresponding to the packets); and
- a display device (paragraph 0037 line 11) for displaying, on a single screen, a first region and one a second region, wherein a the sequence of messages, is read in by means of the selector from the storage device be and displayed listed in the first region (Fig. 17, Fig. 20), wherein
- the selector determines, a first characteristic feature of the messages which are transmitted and the a course of this the first characteristic feature is displayed on the display device in the second region (Fig. 20: TCP level bit rate)

Pruthi discloses all the subject matter of the claimed invention with the exception for at least one service access points from layers of an Open Systems Interconnection (OSI) reference model and end system of a subscriber of a mobile telephone system. Bahadiroglu discloses at least one service access points from layers of an Open Systems Interconnection (OSI) reference model (paragraph 0089 lines 1-8: SAP, OSI protocol model) and end system of a subscriber of a mobile telephone system (paragraph 0036 line 5: mobile node; paragraph 0073 line 3-15: network is

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interconnected by lines including fiber optic cables, wireless connections connected to processing device or mobile phone). Therefore, it would have been obvious to the person of ordinary skill in the art at the time of invention was made to incorporate at least one service access points from layers of an Open Systems Interconnection (OSI) reference model and end system of a subscriber of a mobile telephone system of Bahadiroglu to the method and the system of Pruthi. The motivation would have been to provide adaptive packet mechanism for optimizing data packet transmission through a connection between the sending node and the receiving node (Bahadiroglu paragraph 0047 lines 1-7).

**For claims 2, 11, Pruthi discloses**

- the selector (paragraph 0036 lines 3-5: processor and query engine generating statistics corresponding to the packets) determines a second characteristic feature for messages which are transmitted, and the a course of the second characteristic feature is displayed on the display device in the second region of the display device (Fig. 20: TCP level packet rate)

Pruthi discloses all the subject matter of the claimed invention with the exception for a plurality of service access points of a layer of the OSI reference model.

Bahadiroglu discloses a plurality of service access points of a layer of the OSI reference model (paragraph 0089 lines 1-8: SAP, OSI protocol model). Therefore, it would have been obvious to the person of ordinary skill in the art at the time of invention was made to incorporate a plurality of service access points of a layer of the OSI reference model

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of Bahadiroglu to the method and the system of Pruthi. The motivation would have been to provide adaptive packet mechanism for optimizing data packet transmission through a connection between the sending node and the receiving node (Bahadiroglu paragraph 0047 lines 1-7).

**For claim 6, 15,** Pruthi discloses

- the course of the first characteristic feature is displayed in the second region in a coordinate system, wherein the X axis of the coordinate system is a time axis (Fig. 20: plot of TCP level bit rate)

**For claim 7, 16,** Pruthi discloses

- the a third region (Fig. 17) of the course displayed in the second region which corresponds respectively to the sequence of messages currently displayed in the first region, is highlighted (Fig. 20; it is obvious to one having ordinary skill in the art at the time is able to recognize the information of messaging since highlighting is known to the artisan of ordinary skill as design choice)

**For claim 8, 17,** Pruthi discloses

- the course of the first characteristic feature is displayed in the second region in a coordinate system, wherein the X axis of the coordinate system is subdivided into intervals each having, an identical number of messages (Fig. 20: TCP level bit rate; paragraph 0038 lines 6-9: packets divided into sets

during one of successive one-second time periods; therefore, it is obvious that the number of messages can be identical during sampling time).

**For claim 9**, Pruthi discloses

- the first characteristic feature is a number of transmitted messages per interval of time or a data load or a number of messages transmitted repeatedly (Fig. 20: TCP level bit rate).

Pruthi discloses all the subject matter of the claimed invention with the exception for a layer of the OSI reference model. Bahadiroglu discloses a layer of the OSI reference model (paragraph 0089 lines 1-8: OSI protocol model). Therefore, it would have been obvious to the person of ordinary skill in the art at the time of invention was made to incorporate a layer of the OSI reference model of Bahadiroglu to the method and the system of Pruthi. The motivation would have been to provide adaptive packet mechanism for optimizing data packet transmission through a connection between the sending node and the receiving node (Bahadiroglu paragraph 0047 lines 1-7).

2. **Claims 3-5, 12-14** are rejected under 35 U.S.C. 103(a) as being unpatentable by Pruthi and Bahadiroglu (US 2002/0186660) as applied to claim 1 above, and further in view of Leftwich (US 6,356,256).

**For claims 3, 12**, Pruthi discloses



- the sequence of messages (Fig. 17: sequence of messages) which is read in by means of the selector (paragraph 0036 lines 3-5: processor and query engine generating statistics corresponding to the packets)

Pruthi and Bahadiroglu disclose all the subject matter of the claimed invention with the exception for a selection with which a specific point of the course of the first characteristic feature selected is selectable in the second region. Leftwich discloses a selection with which a specific point of the course of the first characteristic feature selected is selectable in the second region (Fig. 4; col 5 lines 20-41: cursor accessing particular data points and displaying values of the data plots at the cursor position in data fields of window). Therefore, it would have been obvious to the person of ordinary skill in the art at the time of invention was made to incorporate a selection with which a specific point of the course of the first characteristic feature selected is selectable in the second region of Leftwich to the method and the system of Pruthi and Bahadiroglu. The motivation would have been to provide a system for displaying information on a display device such that the information is easily perceivable by a user (Leftwich col 1 lines 29-31).

**For claim 4, 13,** Pruthi discloses

- a sequence of messages is read in from the storage device (Fig. 17: sequence of messages; paragraph 0036 lines 13-16: statistics in memory; paragraph 0037 lines 8-11: providing the statistics to display device)

Pruthi and Bahadiroglu disclose all the subject matter of the claimed invention with the exception for a sequence of messages which corresponds to the specific point, at least one specific point is marked by a marking in the course displayed in the second region and selection of the marking. Leftwich discloses a sequence of messages which corresponds to the specific point, at least one specific point is marked by a marking in the course displayed in the second region and selection of the marking (Fig. 4; col 5 lines 20-41: cursor accessing particular data points and displaying values of the data plots at the cursor position in data fields of window). Therefore, it would have been obvious to the person of ordinary skill in the art at the time of invention was made to incorporate a sequence of messages which corresponds to the specific point, at least one specific point is marked by a marking in the course displayed in the second region and selection of the marking of Leftwich to the method and the system of Pruthi and Bahadiroglu. The motivation would have been to provide a system for displaying information on a display device such that the information is easily perceivable by a user (Leftwich col 1 lines 29-31).

**For claim 5, 14, Pruthi discloses**

- based on the additional items of information stored during storage of messages in the storage device (Fig. 17: information of messages; paragraph 0036 lines 3-5: processor and query engine generating statistics corresponding to the packets; paragraph 0036 lines 13-16: statistics in memory)

Pruthi and Bahadiroglu disclose all the subject matter of the claimed invention with the exception for markings are produced automatically by the selector. Leftwich discloses markings are produced automatically by the selector (Fig. 4; col 5 lines 20-41: cursor accessing particular data points and displaying values of the data plots at the cursor position in data fields of window). Therefore, it would have been obvious to the person of ordinary skill in the art at the time of invention was made to incorporate markings are produced automatically by the selector of Leftwich to the method and the system of Pruthi and Bahadiroglu. The motivation would have been to provide a system for displaying information on a display device such that the information is easily perceivable by a user (Leftwich col 1 lines 29-31).

### ***Conclusion***

7. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

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8. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jae Y. Lee whose telephone number is (571) 270-3936. The examiner can normally be reached on Monday through Friday from 7:30 AM to 5:00 PM EST.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Daniel Ryman can be reached on (571) 272-3152. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Jae Y Lee/  
Examiner, Art Unit 2419

/Daniel J. Ryman/  
Supervisory Patent Examiner, Art  
Unit 2419